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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/059,562 04/14/98 KONUMA

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MM91/0727

 EXAMINER

NGUYEN, D

 ART UNIT PAPER NUMBER

2871

**DATE MAILED:**

07/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/059,562</b>	Applicant(s) <b>Konuma et al.</b>
	Examiner <b>Dung Nguyen</b>	Art Unit <b>2871</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

*106-110, 115-117*

4)  Claim(s) 31-33, 38, 39, 46-51, 55-58, 65-70, 83, 85-87, 89-91, 93, 94, 99 is/are pending in the application.

4a) Of the above, claim(s) 99, 106-108 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.      *115-117*

6)  Claim(s) 31-33, 38, 39, 46-51, 55-58, 65-70, 83, 85-87, 89-91, 93, 94, 109, 110 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

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***Response to Amendment***

Applicant's amendment dated 05/09/2001 has been received.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-33, 38-39, 46-51, 55-58, 65-70, 83, 85-87, 89, 90-91, 93-94 and 109-110 and 115-117 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 31-33, 49-51, 55-58, 65-70, 109-110 and 115-117, it is confusing and unclear how a resin grain can be provided between liquid crystal molecules of the liquid crystal layer which are adjacent to each other. According to the specification (page 39, line 18-27) and

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drawing (figure 3), a plurality of minute grains on the substrate and they exist between the layers or the adjacent liquid crystal molecules. Therefore, it is assumed for the purpose of the examination that the plurality of minute grains (27) are provided between the liquid crystal layer (26) and the orientation layer (24) which formed on the substrate (2).

Regarding claims 38-39, 46-48, 83, 85-87, 89, 90-91 and 93-94, there is insufficient antecedent basis for the limitation in those claims since those claims are depended on cancelled claims. Therefore such dependency need to be clarified.

***Double Patenting***

4. Claims 31-33, 38-39, 46-51, 55-58, 65-70, 83, 85-87, 89, 90-91, 93-94 and 109-110 and 115-117 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-4 and 17-19 of U.S. Patent No. 5,594,569 as stated in the previous office action.

Applicant's request that a formal response to the Double Patenting rejection be held in abeyance until an indication of allowability being received is acknowledged.

***Conclusion***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

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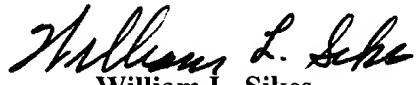
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Dung Nguyen whose telephone number is (703) 305-0423. The fax phone number for this Group is (703) 308-7722.

Any information of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0956.

DN  
07/26/2001

  
William L. Sikes  
Supervisory Patent Examiner  
Group 2871